

August 7, 2006 – Charter Commission Meeting

PROPOSAL NO. 1: ESTABLISHES A NEW DEPARTMENT OF PARKS & RECREATION

1. Text

ARTICLE XXXI
DEPARTMENT OF PARKS AND RECREATION

Section 31.01. Organization. There shall be a department of parks and recreation consisting of a parks and recreation director and any necessary staff.

Section 31.02. Director. The parks and recreation director shall be appointed and may be removed by the mayor. The director shall have had a minimum of five years of experience in a responsible administrative capacity, either in public service or private business, or both, and shall be the administrative head of the department.

Section 31.03. Powers, Duties and Functions. Except as otherwise provided by law, the director of parks and recreation shall:

- A. Plan, design, construct, operate, and maintain all parks and recreational facilities of the county.
- B. Develop and implement programs for the cultural, recreational, and other leisure-time activities for the people of the county.
- C. Beautify the public parks and recreational facilities of the county.
- D. Perform such other duties as may be prescribed by the mayor or by ordinance.

(Material to be deleted is bracketed; new material is underlined)

2. Ballot question

Shall the parks and recreation function, which is currently performed by divisions of the Offices of Community Assistance and the Department of Public Works, be instead performed by a newly-created Department of Parks and Recreation?

PROPOSAL NO. 2: ESTABLISHES COUNCIL DISTRICTING

1. Text

“Section 3.02. Composition. There shall be a council of seven members [elected at-large]. Four members shall be elected at-large by all eligible voters in the county. Each of the other three members shall reside in and shall be elected from a separate council district by eligible voters residing in that separate council district.

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Section 3.04. Qualifications.

A. To be eligible for the council, a person must be a citizen of the United States and must have been a duly qualified [elector] registered voter of the county for at least two years immediately preceding his filing candidacy papers for election [or appointment]. In addition, those candidates for the council who wish to represent one of the three council districts must state which district they wish to represent and that they have been a registered voter of that district for the preceding ninety days. Should a councilmember move from, or be removed from, any of the seven council positions from which that person was elected, any replacement appointee must meet all requirements of a candidate for that position.

B. Any [councilman] councilmember who removes his residence from the county or district from which elected, or is convicted of a felony, shall immediately forfeit his office.

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Section 3.19. District Election and Reappointment.

A. The first election by separate council districts shall be in the primary election of 2008.

B. The year 2011 and every tenth year thereafter shall be reapportionment years.

C. An initial council apportionment commission shall be constituted on or before the first day of April, 2007. A council reapportionment commission shall be constituted on or before the first day of July of each reapportionment year or whenever reapportionment is required by court order. The commission shall consist of seven members. The members of the commission shall be appointed by the mayor and confirmed by the council.

The initial council apportionment commission shall be

responsible for designating the geographic boundaries of the council districts provided for above. The council reapportionment commission shall be responsible for the reapportionment and redistricting of those districts.

The commission shall elect a chair from among its members. Any vacancy in the commission shall be filled in the same manner as for an original appointment. The commission shall act by the majority vote of its membership and shall establish its own procedures. No member of the commission shall be eligible to become a candidate for election or appointment to the council in the initial election held under any apportionment or reapportionment plan adopted by the commission.

The commission shall be furnished all necessary technical and secretarial services. The mayor and the council shall appropriate funds to enable the commission to carry out its duties.

D. In effecting the initial apportionment and each subsequent reapportionment, the commission shall be guided by and comply with all applicable Federal and State laws.

E. On or before February 1 of the year following appointment, the commission shall file with the county clerk an apportionment or reapportionment plan, which shall become effective upon its filing.

F. Any registered voter may petition the proper court to compel, by mandamus or otherwise, the appropriate person or persons to perform their duty or to correct any error made in the apportionment or reapportionment plan, or the court may take such other action to effectuate the purposes of this section as it may deem appropriate. Any such petition must be filed within forty-five calendar days after the filing of the plan.

G. The commission's tenure shall end upon the filing of its plan."

(Deleted material is bracketed; new material is underlined)

2. Ballot Question

Effective 2008, shall three of the seven council members be elected by districts, with one member residing in and elected from each of three districts that shall be established by an apportionment commission to be appointed in 2007, and four of the seven council members elected at-large, and shall 2011 and every tenth year thereafter be a reapportionment year?

PROPOSAL 3: ESTABLISHES TERM LIMITS FOR COUNCILMEMBERS

1. Text

“Section 3.03. Terms. The terms of office of councilmembers shall be for two years beginning at twelve o’clock meridian on the first working day of December following their election. No person shall be elected to the office of councilmember for more than four consecutive two year terms.”

(Deleted material is bracketed; new material is underlined)

2. Ballot Question

Shall the term of office for councilmembers be limited to four consecutive elected two-year terms, beginning with the 2008 election?

PROPOSAL 4: ESTABLISHES A CHARTER COMMISSION FOR TEN YEARS

1. Text

“Section 24.03. Charter Review. [Five years after the adoption of the charter and at ten year intervals thereafter, the] The mayor with the approval of the council shall appoint, with appropriate staffing, a charter commission composed of seven members who shall serve in accordance with Section 23.02C of this Charter to study and review the operation of the county government under this charter for a period of ten years commencing in 2007. Thereafter, the mayor with the approval of the council shall appoint a charter commission at ten year intervals. In the event the commission deems changes are necessary or desirable, the commission may propose amendments to the existing charter or draft a new charter which shall be submitted to the county clerk. The county clerk shall provide for the submission of such amendments or new charter to the voters at any general or special election as may be determined by the commission. The commission shall publish not less than thirty (30) days before any election at least once in a newspaper of general circulation within the county the entire text of the amendments or new charter.”

(Material to be deleted is bracketed; new material is underlined)

2. Ballot Question

Shall the Charter Commission, which is currently formed every ten years to study and review the operations of county government and propose amendments to the Charter, instead be established for a period of ten years beginning in 2007 and ending in 2017, and thereafter, revert to being formed every ten years?

PROPOSAL NO. 5: CHANGES SALARY COMMISSION'S SALARY SETTING AUTHORITY

1. Text

Section 29.01. Organization. [The salaries of all councilmembers shall be established by an independent salary commission which shall consist of seven members. The mayor shall appoint three members, the council shall appoint three members, and the seventh member shall be appointed by the appointed six. If there is no agreement on the selection of the seventh member within forty-five days of the appointment of the sixth member, the seventh member shall be appointed by the mayor and confirmed by the council.] There shall be a Salary Commission composed of seven members to establish the salaries of all councilmembers and all officers and employees included in Section 3-2.1 of the Kauai County Code 1987, as amended.

Section 29.02. Purpose and Duties.

A. The commission shall set salaries of councilmembers in accordance with the principles of adequate compensation for work performed, the preservation of a sensible relationship with the salaries of other county employees.

B. The commission shall review and recommend the salaries and minimum qualifications of all officers and employees included in Section 3-2.1 of the Kauai County Code 1987, as amended.] Policies. The commission shall adopt and, when it deems necessary, may change the policies governing its salary-setting decisions.

Section 29.03. Term. The term of the commission shall be conterminous with the term of the council. The mayor and council shall make their selection within forty-five days of their inauguration.] Resolution. The commission's salary findings shall be adopted by resolution of the commission and forwarded to the mayor and the council on or before March 15. Subject to Section 29.05, the resolution shall take effect without the mayor's and council's concurrence sixty days after its adoption unless rejected by a vote of not less than five members of the council. The council may reject either the entire resolution or any portion of it. The respective appointing authority may set the salary of an appointee at a figure lower than the figure established by ordinance for the position.

Section 29.04 Initial Commission. The initial commission shall be appointed for the term commencing December 1, 1988.]

[Section 29.05 Meetings; Rules. [The commission shall meet at least once a year to set the salaries for councilmembers and recommend the salaries for all other elected officials and employees as specified in Section 29.02 of this charter.] The commission shall establish its rules of procedures and adopt rules and regulations pursuant to law.

Section [29.06] 29.05 Changes in Salary. No change in salary of councilmembers shall be effective during the term in which a change is enacted or for twenty-four months after a change is enacted, whichever is less.

Section [29.07] 29.06 Administration and Operation. The mayor and council shall provide an annual appropriation sufficient to enable the commission to secure clerical assistance and pay other operational costs in the performance of its duties.

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Section 3.06 Compensation. The salary of each councilmember shall be [as established by the Salary Commission.] established in accordance with the provisions of Article XXIX of this Charter.

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Section 3.11 Adoption of Pay Plan. The Council by ordinance shall [fix] appropriate the salaries of all [department heads,] officers [(excluding councilmembers),] and employees who are exempt from civil service in accordance with the provisions of Section 7.05E and Article XXIX of this Charter. All other officers and employees shall be classified and paid in accordance with law.

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Section 5.01. Powers, Duties and Functions,

A. The council shall appoint and may remove [and shall fix the salary of] the county clerk. The salary of the county clerk shall be set pursuant to Article XXIX of this Charter.

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Section 7.05. Powers, Duties and Functions. The mayor shall be the chief executive officer of the county. He shall have the power to:

E. Recommend to the council for its approval a pay plan for all [department heads,] officers [(excluding councilmembers)] and employees who are exempt from civil service and the position classification plan and who are not included in Section 3-2.1 of the Kauai County Code 1987, as amended.

Section 7.06. Vacancy in Office

B. During the temporary absence from the county or temporary disability of the mayor, or in case of a vacancy in the office of the mayor, until a new mayor is appointed or elected, the administrative assistant shall act as mayor. In the event both the mayor and the administrative assistant are temporarily absent or disabled, the finance director shall act as mayor during said period.

(1) The mayor shall appoint and may remove an administrative assistant whose qualification shall be the same for the position of mayor. The salary for the administrative assistant shall be [fixed by ordinance] set pursuant to Article XXIX of this Charter. The administrative assistant shall serve as the mayor's principal administrative aide.

(Material to be deleted is bracketed; new material is underlined)

2. Ballot question

Shall the findings of the Salary Commission establishing salaries for all councilmembers and county officers and employees who are exempt from civil service become effective, unless rejected in whole or in part by a vote of five or more members of the Council?

PROPOSAL NO. 6: ESTABLISHES THE POSITION OF BOARDS AND COMMISSIONS ADMINISTRATOR

1. Text

Section 7.06. Boards and Commissions Administrator.

A. There shall be a boards and commissions administrator and any necessary staff. The administrator shall have such training, education or experience as shall qualify the administrator to perform the duties described in this section. The administrator shall be appointed and may be removed by the mayor.

B. The administrator shall assist in providing administrative and operational support to the various county boards and commissions. Such support shall include, but not be limited to: assisting in the recruitment, orientation, education, and training of board or commission members regarding their powers, duties, functions, and responsibilities under the charter, especially as such powers, duties, functions, and responsibilities may relate to the particular board or commission to which they have been appointed; helping to educate such members about applicable state and county ethics laws and the State Sunshine Law; assisting the Office of the Mayor to fill any vacancies on any board or commission; being a resource to assist the various county boards or commissions in gathering such information, documents, and data as such boards or commissions may deem necessary to perform its functions; serving as a communications liaison between boards and commissions and the various county departments, offices, and agencies that such boards and commissions may interact with, to help ensure that the various boards' or commissions' information needs are addressed in timely fashion.

C. The mayor and council shall provide an annual appropriation sufficient to provide the administrator with adequate personnel and administrative, operational, and clerical support to carry out the administrator's functions.

Section [7.06.] 7.07. Vacancy in Office

A. In the event of a vacancy in the office of the mayor, the council shall select, by majority vote, one of its members as mayor to serve until the next general election and assumption of office in December by the person elected mayor. The vacancy in the council shall be filled as provided for in Article III, Section 3.05 of the charter. In the event the vacancy occurs prior to the mid-term election, the person elected mayor in the general election shall serve only for the unexpired term of the mayor elected in the prior election. In the event the vacancy occurs later than three (3) days prior to the closing date for filing of nomination papers for the mid-term election, the mayor selected by the council shall continue to serve for the remainder of the term of the person he succeeded. The foregoing provisions shall also apply in the event the person elected as mayor dies before taking office.

B. During the temporary absence from the county or temporary disability of the mayor, or in case of a vacancy in the office of the mayor, until a new mayor is appointed or elected, the administrative assistant shall act as mayor. In the event both the mayor and the administrative assistant are temporarily absent or disabled, the finance director shall act as mayor during said period.

(1) The mayor shall appoint and may remove an administrative assistant whose qualification shall be the same for the position of mayor. The salary for the administrative assistant shall be fixed by ordinance. The administrative assistant shall serve as the mayor's principal administrative aide.

C. In the event the person elected as mayor dies before taking office, the person serving as administrative assistant at the termination of the prior term shall continue to serve as acting mayor until a new mayor is elected.

(Deleted material is bracketed; new material is underlined)

2. Ballot question

Shall there be a boards and commissions administrator and any necessary staff to assist in providing training, education, administrative and operational support to the various county boards and commissions?

PROPOSAL NO. 7: ESTABLISHES THE NUMBER OF MEMBERS FOR ALL CHARTER BOARDS AND COMMISSIONS

1. Text

Section 11.02. Police Commission. The police commission shall consist of [five] seven members appointed by the mayor with the approval of the council. The commission shall hold regular public meetings at a designated time and place.

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Section 15.02. Civil Service Commission Organization. The civil service commission shall consist of [five] seven members who shall be in sympathy with and who shall believe in the principles of the merit system in public employment, or the members appointed, one shall be selected from among persons employed in private industry in either skilled or unskilled laboring positions as distinguished from executive or professional positions.

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Section 16.02 Liquor Control Commission. The liquor control commission shall consist of [five] seven members.

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Section 20.05. Board of Ethics. There shall be a board of ethics.

A. The board shall consist of [five] seven members.

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Section 23.02. Boards and Commissions. The council may create such other boards and commissions, not provided herein, by ordinance. All boards and commissions, including those which are specifically provided for herein, shall be organized, appointed and vested with the power and authority as provided hereunder which are not in conflict with the provisions of this charter.

A. All boards and commissions established by Charter shall consist of at least [five] seven members.

(Deleted material is bracketed; new material is underlined)

2. Ballot question

Shall all boards and commissions established by Charter consist of seven members, including the police commission, civil service commission, liquor commission, and the board of ethics?

**PROPOSAL NO. 8: ESTABLISHES STAGGERED TERMS FOR ALL CHARTER
BOARDS & COMMISSIONS**

1. Text

ARTICLE XXVIII
COST CONTROL COMMISSION

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“[Section 28.03. Term The term of the commission shall be coterminous with the term of the mayor. The mayor and council shall make their selection within forty-five (45) days of their inauguration.]”

ARTICLE XXIX
SALARY COMMISSION

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“[Section 29.03. Term. The term of the commission shall be conterminous with the term of the council. The mayor and council shall make their selection within forty-five days of their inauguration.]”

(Deleted material is bracketed; new material is underlined)

2. Ballot Question

Shall all members of boards and commissions serve staggered terms of three years, including the Cost Control and Salary Commissions, whose members currently serve terms coterminous with the Mayor?

PROPOSAL NO. 9: ESTABLISHES PROCEDURE FOR APPOINTMENT OF MEMBERS TO ALL CHARTER BOARDS & COMMISSIONS

1. Text

“Section 28.01. There shall be a County Cost Control Commission composed of seven members not employed in government service. [Three of the members shall be selected by the mayor, three by the council and the seventh shall be appointed by the selected six. If there is no agreement on the selection or the seventh member within thirty (30) days of the appointments or the six members, the seventh member will be selected by the mayor.]”

“Section 29.01. Organization. The salaries of all councilmembers shall be established by an independent salary commission which shall consist of seven members. [The mayor shall appoint three members, the council shall appoint three members, and the seventh member shall be appointed by the appointed six. If there is no agreement on the selection of the seventh member within forty-five days of the appointment of the sixth member, the seventh member shall be appointed by the mayor and confirmed by the council.]”

(Deleted material is bracketed; new material is underlined)

2. Ballot Question

Shall all members of boards and commissions be appointed by the Mayor and approved by the County Council, including the Cost Control and Salary Commissions?

PROPOSAL NO. 10: ESTABLISHES A FIRE COMMISSION

1. Text

Section 12.01. Organization. There shall be a fire department consisting of a chief, a fire commission, and the necessary staff.

Section 12.02. Fire Chief. The fire chief shall be appointed and may be removed by the [mayor] fire commission. He shall have had a minimum of five years of training and experience in fire prevention and control in private industry or government service, at least three years of which shall have been in a responsible administrative capacity.

Section 12.03. Powers, Duties, and Functions. The fire chief shall be the administrative head of the fire department and shall:

A. Appoint, train, equip, supervise and discipline the personnel of the fire department in accordance with department rules and civil service regulations.

B. Provide an effective program and leadership for county-wide fire prevention, fire control and rescue operations.

C. Control, manage and account for all property in the custody of the fire department.

D. Execute such other powers and duties as may be prescribed by law or assigned by the mayor.

Section 12.04. Fire Commission. There shall be a fire commission consisting of seven members. Commission members shall be appointed by the mayor and approved by the council and be otherwise governed by the provisions of section 23.02 of the charter.

Section 12.05. Powers, Duties, and Functions of the Fire Commission. The fire commission shall:

A. Adopt rules necessary for the conduct of its business and review rules for the administration of the department.

B. Review the annual budget prepared by the fire chief and make recommendations thereon to the mayor and the council.

C. Review the department's operations, as deemed necessary, for the purpose of recommending improvements to the fire chief.

D. Evaluate at least annually the performance of the fire chief and submit a report to the mayor and the council.

E. Hear complaints of citizens concerning the department or its personnel and, if the commission deems necessary, make recommendations to the fire chief on appropriate corrective actions.

F. Submit an annual report to the mayor and the council regarding its activities.

Except for purposes of inquiry or as otherwise provided in this charter, neither the commission nor its members shall interfere in any way with the administrative affairs of the department.

(Deleted material is bracketed; new material is underlined)

2. Ballot question

Shall there be a fire commission consisting of seven members who shall appoint and remove the fire chief, review and make recommendations relating to the fire department's annual budget and operations and hear complaints of citizens concerning the department or its personnel?

PROPOSAL NO. 11: CHANGES THE SIGNATURE REQUIREMENTS FOR INITIATIVE AND REFERENDUM

1. Text

“22.03 C. Each initiative or each referendum petition must be signed by not less than [twenty percent (20%)] five percent (5%) of the number of eligible voters in the last preceding general election.”

(Deleted material is bracketed; new material is underlined)

2. Ballot Question

Should the requirement that each initiative or referendum petition be signed by not less than 20% of the number of eligible voters in the last preceding general election be reduced to 5% of eligible voters?

PROPOSAL 12: CHANGES SIGNATURE REQUIREMENTS FOR RECALL PETITION

1. Text

“Section 27.01. Recall Procedure. Any elective officer serving a four-year term as provided for in this charter may be removed from office by the voters of the county. The procedure to effect such removal shall be in accordance with this article.

A petition demanding that the question of removing such official be submitted to the voters shall be filed with the county clerk. Such petitions shall be signed by currently registered voters numbering not less than [twenty percent (20%)] five percent (5%) of the voters registered in the last general election.”

(Deleted material is bracketed; new material is underlined)

2. Ballot Question

Shall the requirement that each recall petition be signed by not less than 20% of the voters registered in the last general election be reduced to 5%?

PROPOSAL NO. 13: PROHIBITS COUNCILMEMBERS FROM VOTING IF THEY HAVE A CONFLICT OF INTEREST

1. Text

Section 20.04. Disclosure.

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B. Any elected or appointed officer or employee who possesses or acquires such interest as might reasonably tend to create a conflict with his duties or authority shall make full disclosure to his appointing authority, to the council, in the case of a member of the council, or to the board or commission on which he serves at any time such conflict becomes apparent. Any member of the council or any board or commission who knows he has a direct personal financial interest in any proposal pending before the body of which he is a member shall disclose such interest to such body. No appointed officer or employee shall participate, discuss or vote on such pending matter unless his vote is required to establish a quorum to act on such matter[; provided that a member of the council is not precluded from voting on such matter so long as a written disclosure has been made in the event there is a conflict of interest relating to such matter].

(Material to be deleted is bracketed; new material is underlined)

2. Ballot question

Shall the Code of Ethics be amended to prohibit a councilmember from voting on a matter in which the councilmember has a conflict of interest unless the councilmember's participation is required for a quorum and subsequent vote?

PROPOSAL NO. 14: REMOVES LICENSING REQUIREMENT FOR COUNTY ENGINEER

1. Text

Section 13.02. County Engineer. The county engineer shall be appointed and may be removed by the mayor [. He shall be a registered engineer] and shall have had a minimum of five years of training and experience in an engineering position, at least three years of which shall have been in a responsible administrative capacity.

(Material to be deleted is bracketed; new material is underlined)

2 Ballot question

Shall the requirement that the County Engineer be a registered engineer be removed from the Charter?

PROPOSAL NO. 15: CHANGES TITLE OF ADMINISTRATIVE ASSISTANT

1. Text

Section 6.04. Appointment and Removal of Officers and Employees.

A. The [administrative assistant to the mayor] managing director and all department heads shall be appointed and may be removed by the mayor, except as otherwise provided by this charter.

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Section 7.06. Vacancy in Office

B. During the temporary absence from the county or temporary disability of the mayor, or in case of a vacancy in the office of the mayor, until a new mayor is appointed or elected, the [administrative assistant] managing director shall act as mayor. In the event both the mayor and the [administrative assistant] managing director are temporarily absent or disabled, the finance director shall act as mayor during said period.

(1) The mayor shall appoint and may remove [an administrative assistant] a managing director whose qualification shall be the same for the position of mayor. The salary for the [administrative assistant] managing director shall be fixed by ordinance. The [administrative assistant] managing director shall serve as the mayor's principal administrative aide.

C. In the event the person elected as mayor dies before taking office, the person serving as [administrative assistant] managing director at the termination of the prior term shall continue to serve as acting mayor until a new mayor is elected.

(Material to be deleted is bracketed; new material is underlined)

2. Ballot question:

Shall the title of Administrative Assistant be changed to Managing director?